

HOUSE BILL 1820

By Cobb J

AN ACT to amend Tennessee Code Annotated, Title 68,
Chapter 140, Part 7, relative to defibrillators.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 140, Part 7, is amended by deleting Part 7 in its entirety and substituting instead the following language as a new Part 7:

§ 68-140-701.

It is the intent of the general assembly that an automated external defibrillator (AED) may be used in accordance with the provisions of § 68-140-703 for the purpose of saving the life of another person in cardiac arrest.

§ 68-140-702.

As used in this part "automated external defibrillator" or "AED" means a medical device heart monitor and defibrillator that:

(1) Has received approval of its premarket notification, filed pursuant to 21 U.S.C. § 360(k), from the United States food and drug administration;

(2) Is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia, and is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(3) Upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart.

§ 68-140-703.

(a) In order to ensure public access to an AED and to ensure public health and safety a person or entity who acquires an AED shall designate the AED for private or public use.

(b) A person or entity who designates an AED for private use shall ensure that:

(1) Expected defibrillator users receive American Heart Association CPR and AED or an equivalent nationally recognized course in AED use and cardiopulmonary resuscitation;

(2) The AED is maintained and tested according to the manufacturer's operational guidelines and that written records of all maintenance and testing performed on the AED are maintained;

(3) Within a reasonable time after the placement of an AED, the existence and location of the AED is registered with the emergency communications district or the ambulance dispatch center of the primary provider of emergency medical services where the AED is located; and

(4) Any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the emergency medical services system as soon as possible.

(c) A person or entity who designates an AED for public use in the Tennessee public access defibrillator program (PAD) shall ensure that:

(1) The AED is manufactured for a PAD program;

(2) The AED is easy to access and retrieve by any person;

(3) The AED is maintained and tested according to the manufacturer's operational guidelines;

(4) Within a reasonable time after the placement of an AED, the existence and location of the AED is registered with the emergency communications district or the ambulance dispatch center of the primary provider of emergency medical services where the AED is located; and

(5) An automatic alarm notifies the emergency communication district or ambulance dispatch center of the primary provider of emergency medical services when the AED is accessed.

§ 68-140-704.

(a) In order to establish a Tennessee public access defibrillator (PAD) program, an AED shall be designated for private or public use.

(b) A person or entity who designates an AED for private use shall:

(1) Establish a program for the use of an AED that includes a written plan that complies with subdivisions (2)-(6) and rules adopted by the department of health pursuant to § 68-140-705. The plan must specify:

(A) Where the AED will be placed;

(B) The individuals who are authorized to operate the AED;

(C) How the AED will be coordinated with an emergency medical service providing services in the area where the AED is located;

(D) The maintenance and testing that will be performed on the AED;

(E) Records that will be kept by the program;

(F) Reports that will be made of AED use;

(G) Other matters as specified by the department; and

(H) A plan of action for proper usage of the AED;

(2) Adhere to the written plan required by subdivision (1);

(3) Ensure that before using the AED, expected users receive

appropriate training approved by the department in cardiopulmonary resuscitation and the proper use of an AED;

(4) Maintain, test, and operate the AED according to the manufacturer's guidelines and maintain written records of all maintenance and testing performed on the AED;

(5) Each time an AED is used for an individual in cardiac arrest, require that an emergency medical service is summoned to provide assistance as soon as possible, and that the AED use is reported to the supervising physician or the person designated by the physician and to the department as required by the written plan;

(6) Before allowing any use of an AED, provide to the emergency communications district or the primary provider of emergency medical services where the AED is located:

(A) A copy of the plan prepared pursuant to this section;

and

(B) Written notice, in a format prescribed by department rules, stating:

(i) That an AED program is established by the entity;

(ii) Where the AED is located; and

(iii) How the use of the AED is to be coordinated with the local emergency medical service system; and

(7) Comply with the provisions of § 68-140-703(b).

(c) A person or entity who designates an AED for public use in the Tennessee PAD program shall:

(1) Comply with the reporting requirements promulgated by the department of health pursuant to § 68-140-705(2); and

(2) Comply with the provisions of § 68-140-703(c).

§ 68-140-705.

(a) The department of health shall adopt rules specifying the following:

(1) The contents of the written notice required by § 68-140-704(b);

(2) Reporting requirements for each use of an AED;

(3) The contents of a plan prepared in accordance with § 68-140-704(b) and requirements applicable to the subject matter of the plan;

(4) Training requirements in cardiopulmonary resuscitation and AED use that are consistent with the scientific guidelines of the American Heart Association for any individual authorized by an AED program plan to use an AED;

(5) Requirements for medical supervision of an AED program;

(6) Performance requirements for an AED in order for the AED to be used in an AED program; and

(7) A list of the AED training programs approved by the department.

(b) The department of health shall compile the following data for each county:

(1) The total number of each reported use of an AED; and

(2) The total number of each reported life saved by use of an AED.

§ 68-140-706.

For purposes of § 68-140-704(b), expected AED users shall complete training and demonstrate competence in CPR and the use of an AED through a course of instruction approved by the Tennessee emergency medical services board.

§ 68-140-707.

(a) The entity responsible for the AED program pursuant to § 68-140-704(b) shall not be liable for any civil liability for any personal injury that results from an act or omission that does not amount to willful or wanton misconduct or gross negligence if the applicable provisions and program established under § 68-140-704(b) and the rules adopted by the department pursuant to § 68-140-705 have been met by the entity and have been followed by the individuals using the AED.

(b) A person or entity responsible for the AED program pursuant to § 68-140-704(c) shall not be liable for any civil liability for any personal injury that results from an act or omission that does not amount to willful or wanton misconduct or gross negligence if the applicable provisions and program established under § 68-140-704(c) have been met by the person or entity.

(c) A facility which does not provide an AED shall not be liable to persons who suffer cardiac arrest or sudden cardiac death in or near the facility.

(d) A person or entity who donates an AED to be used in the Tennessee PAD program shall not be liable to persons who suffer cardiac arrest or sudden cardiac death.

§ 68-140-708.

An individual providing training to others in an approved program on the use of an AED shall be held harmless by the employer of the trainer for damages caused by training that was negligent.

§ 68-140-709.

The provisions of §§ 68-140-704 - 68-140-709, shall only apply to situations involving emergency use of an AED and in no case shall it apply where there is a duty to provide care. Nor shall it apply where a doctor has prescribed use of an AED for a patient's use in the patient's private home.

SECTION 2. This act shall take effect July 1, 2007, the public welfare requiring it.